



Michael D. Adams

23 May 2012

I am writing in response to Ms. Wilcox's and Mr. Lord's comments posted on 22 May.

It should be noted:

1. Ms. Wilcox opines, “ham operators serve a useful purpose, however, when they impact other people's equipment, then regulation is required.” That regulation already exists in the form of Commission rules generally prohibiting harmful interference and obligating licensed amateurs to operate under good engineering practice. No respondent has suggested an erosion of those rules.

Also, one could question whether it is appropriate for homeowners associations to claim authority to enforce the Commission’s rules on interference, or if that purported enforcement is evenly applied to all forms of interference, or just interference caused by Part 95 and 97 services. I am not acquainted with any HOA actions against owners of plasma screen televisions or certain wireless baby monitors, for example. Even in those communities where CCRs purport to prohibit all RF emissions, I am unaware of attempts to prohibit property owners from using cell phones, garage door openers, or wifi devices, within reason.¹

Setting aside personal concerns about the extent to which homeowners associations do or don’t observe due process², I can envision the Commission tolerating some level of mediation of RFI complaints being handled within homeowners associations, as it could be somewhat consistent with the Commission’s preference that hams self-regulate and self-police to the greatest extent possible. However, are prohibitions of or excessive restrictions upon amateur radio antennas really the least restrictive way to address RFI concerns?

2. I suspect that most respondents would agree that other aesthetic restrictions imposed by CCRs are not relevant to the question of whether HOA prohibitions or restrictions on antennas inappropriately restrict the amateur radio service.

¹ I do recall reading several years ago about one development in Colorado or New Mexico which sought to provide residents an environment with as little manmade EM radiation as possible for health concerns. If my memory is correct, in such a community a prohibition on amateur radio activity would not seem out of place or unreasonable. However, such developments would be the exception, rather than the rule. If HOAs that restrict amateur radio activities were the exception, rather than having become so pervasive in the past several years, this study would not have been called for.

² Although such concerns are beyond the scope of the Commission’s study, they are a matter that I think merit investigation by another agency. While my current home is not encumbered with CCRs, I have postponed relocating for work and family reasons in part because of issues in finding an acceptable home not burdened by CCRs in the target area.

In fact, the type of vegetation that could be "clear cut", as described in Ms. Wilcox's responses, is one kind of camouflage that can be used to make an effective HF wire or vertical antenna invisible to casual observation.

I again suggest that it is reasonable for homeowners associations or zoning boards administering historic districts to require that amateur antennas be selected and erected in a manner that minimizes their visual impact without sacrificing a reasonable level of effectiveness...but that an outright prohibition on property owners from erecting a single HF and a single VHF/UHF antenna is unreasonable.

I also again suggest that it is always unreasonable to prohibit any amateur radio service antennas that are not visible to casual observation from a street or common area.

With guidance from the Commission, their homeowners association could continue to protect its members from material deterioration of its desired aesthetics, without relaxing the Commission's prohibition on harmful interference, while permitting residents to provide public service through their experimentation in the amateur radio service.

3. Like Mr. McVey, I reviewed aerial photography of Waldorf, Maryland while armed with a listing of addresses of licensed amateurs in the FCC database reveals no amateur listed at an address in Ms. Wilcox or Mr. Lord's ZIP code that could support the "clear-cutting" described in Ms. Wilcox's initial response.

There are, of course, several possible explanations for this, including:

- The individual in question is a licensed amateur who moved to the community, but failed to change his address in the FCC database;
- The individual's mailing address is different than his physical residence;
- Google Maps sometimes misidentifies addresses in its aerial imagery;
- The Huntington Neighborhood may extend beyond 20602; or
- The individual is an operator within a different radio service, and is not licensed under Part 97.

I am, of course, sorry to hear that Ms. Wilcox and Mr. Lord's association had to turn to the courts to seek resolution. It sounds like there were issues beyond the neighborhood's interference complaints. I can only presume that even if a Commission partial pre-emption of the association's antenna ban had been in place, a situation would still have arisen. If the Commission had obliged homeowners associations to permit antennas positioned to minimize visual impact, the current

prohibition against harmful interference would have continued in force. Also, I am not aware of any respondent calling for the Commission to pre-empt landscaping restrictions.

That said, I mention the comparison of the FCC database address list to the aerial photography and Ms. Wilcox's description of the impacted property for another reason. When reviewing the imagery, I note that most of the residential development in ZIP code 20602 has the appearance of planned development likely subject to CCRs.

Without on-the-ground investigation or review of local property records, I hesitate to draw the conclusion that there are no residential properties in that ZIP code not burdened by CCRs. However, the aerial photography does add some context to the point argued or implied by many respondents: does the statement "if you want an antenna, don't buy property in an association that prohibits antennas" really make sense if there are no CCR-less properties in the community to buy?³

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael D. Adams", with a long horizontal flourish extending to the right.

Michael D. Adams

³ In fairness, I should disclose that my family already faces challenges in finding "acceptable housing". My wife has mobility issues following a car accident ten years ago. In Connecticut, where 1½-2 story homes are the norm, it is challenging finding houses that feature "first floor living" and other accessibility features. If/when we move, I do not look forward to the challenge of finding another accessible home, even without considering whether a homeowners association will permit me to camouflage a wire antenna among some suitable trees.